THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.13663 OF 2006

Dated: 12.06.2007

Between:

The Commissioner of Social Welfare, A.P. Hyderabad & others.

..Petitioners

And

Smt.S.Niranjani

.. Respondent.

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THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.13663 OF 2006

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioners seeking to call for the records relating to the order dated 18.8.2004 passed in O.A.No:5690 of 1999 by the learned Tribunal and to quash the same.

The respondent herein is the applicant before the tribunal. Originally, the applicant has filed the O.A. seeking to declare that the applicant is entitled for release of pension, gratuity, commutation and other retiremental benefits consequent on her retirement on attaining the age of superannuation of 58 years on the afternoon of 30.6.1998 after duly regularizing the period of suspension from 1.7.1988 to 25.8.1989 as on duty with all attendant benefits including the penal interest at 18% p.a. for belated payment together with costs as the disciplinary proceedings against the applicant and others were dropped by G.O.Ms.No:491, SW. dated 2.5.1997.

Heard the learned counsel.

There is no dispute that the disciplinary proceedings were initiated in the year 1988 against the applicant and others. The tribunal having observed that there were no satisfactory reasons mentioned for not concluding the enquiry and even the 2nd commissioner of enquiries closed the enquiry on the ground that the Government did not send the records and that the abnormal delay in concluding the disciplinary proceedings initiated against the applicant way back in the year 1988 was not properly explained and thereby, no further action can be taken against the applicant after a lapse of nearly

16 years after the commencement of the disciplinary proceedings against the applicant, allowed the O.A. directing the petitioners-respondents to release all the pensionary benefits due to the applicant duly issuing the orders for dropping of further action within a period of three months from the date of receipt of a copy of this order and also to issue notice to the applicant within 15 days from the date of receipt of a copy of this order for treating the period of suspension of the applicant and regulate the same in accordance with rules and communicate the orders to the applicant. Having aggrieved by the same, the present writ petition is filed by the respondents-petitioners.

We have perused the entire material available on record as well as the order impugned and heard the learned counsel.

The facts that are undisputed, are that the disciplinary proceedings against the applicant were commenced in the year 1988 and a charge memo was issued by the Commissioner of Social Welfare on 28.5.1994. The first enquiry officer was changed by appointing the member of Commissionerate of Enquiries under the Commission of Enquiries Act. Even this enquiry officer was changed subsequently and one Sri.Sukumara, IPS., was appointed as second Commissioner of Enquiries to enquire into the matter. Even as per the contents mentioned in G.O.Rt.No:491, Social Welfare Department, dated 2.5.1997, the Government did not furnish the records to the second Commissioner of Enquiries to finalise the enquire and the second Commissioner of enquiries observed that the Government did not furnish the records and in view of this, he closed the enquiry.

It could even be seen from the counter filed by the respondents-petitioners that the applicant submitted her reply on 19.4.1997 for the charge memo dated 17.3.1997.

The disciplinary proceedings were initiated in the year 1988,

but so far, the same have not been concluded, for which it is the reason that has been assigned by the respondents that the same cannot be concluded due to administrative reasons. Except making such a bald reason, no material has been placed before this Court for causing such an inordinate delay in concluding the proceedings as rightly observed by the tribunal.

Irrespective of the fact as whether there were misappropriation of funds of the Government, in view of the fact that the petitioners-respondents have failed to secure any prima facie material to proceed with the enquiry and the applicant has already retired from service, We feel that the inordinate delay of nearly 19 years in proceeding with the enquiry, amounts to cause great hardship and prejudice to the interests of the applicant and thereby, leads to draw an adverse inference against the action of the petitioners-respondents and hence, the tribunal has rightly allowed the application by directing to drop the further proceedings while granting the other benefits as sought for by the applicant.

In this view of the matter, We see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 18.06.2007

Gurc/nn

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.13663 OF 2006

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 18.06.2007